

# Holland & Knight

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March 2, 2023

## VIA ECF

The Honorable Paul A. Engelmayer  
United States District Judge, S.D.N.Y.  
Thurgood Marshall United States Courthouse  
40 Foley Square, Courtroom 1305  
New York, New York 10007

Re: *Capri Sun GmbH v. American Beverage Corporation*; 1:19-cv-01422 (PAE)  
– Request to Reschedule April 11, 2023 Final Pretrial Conference

Dear Judge Engelmayer:

We represent Defendant American Beverage Corporation (“ABC”) in the above-referenced civil action. Pursuant to Rule 1.A of the Court’s Individual Rules and Practices (Rev. April 2021), we write concerning the final pretrial conference, currently scheduled for April 11, 2023. *See* Dkt. No. 264.

On February 21, 2023, ABC and Plaintiff Capri Sun GmbH (“Capri Sun,” and collectively with ABC, the “Parties”) requested that the Court adjourn the final pretrial conference scheduled for February 27, 2023 and reschedule the conference to a date after March 10, 2023, after the Parties’ submission of a revised pretrial order. *See* Dkt. Nos. 261-263. In their February 21st letter to the Court, the Parties suggested the week of April 24, 2023 for the final pretrial conference, as it was sufficiently in advance of the trial date and the Parties’ respective lead trial counsel are available during that week. *See* Dkt. No. 263. The Court granted the Parties request, but rescheduled the final pretrial conference for April 11, 2023. *See* Dkt. No. 264.

Unfortunately, lead trial counsel for ABC is unavailable on April 11, 2023 due to an unmovable firm conflict. Accordingly, ABC respectfully requests that the Court reschedule the final pretrial conference to April 17 or 18, 2023, as lead trial counsel for both ABC and Capri Sun are available on those dates. Such an extension would not interfere with the currently scheduled trial date. If the Court is not available on either April 17th or April 18th, the Parties would be happy to jointly call the clerk to discuss rescheduling the conference to a date convenient to the Court.

We have conferred with counsel for Capri Sun, and Capri Sun does not oppose ABC’s request to reschedule the final pretrial conference.

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We thank the Court for its time and consideration.

Sincerely,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to read 'Mark Goracke', with a stylized, cursive script.

Mark Goracke

MTG:jnm

The Court reschedules the final pretrial conference to April 24, 2023 at 3 p.m. The Court is presently scheduled to be on trial the previous week. SO ORDERED.

A handwritten signature in black ink, appearing to read 'Paul A. Engelmayer', with a stylized, cursive script.

PAUL A. ENGELMAYER  
United States District Judge  
March 9, 2023